

September 30, 1999

Mary Cottrell, Secretary

Department of Telecommunications and Energy

One South Station, 2nd Floor

Boston, Massachusetts 02110

Re: D.T.E. 99-76 - Boston Gas Company, Colonial Gas Company and Essex County Gas Company 1999 Peak Period CGAC and LDAC Filing (Portfolio Restructuring Proposal)

Dear Secretary Cottrell:

By this letter, the Attorney General provides preliminary comments<sup>(1)</sup> on the gas supply portfolio restructuring proposal included in the September 15, 1999 peak season Cost of Gas Adjustment ("CGAC") filing by Boston Gas Company, Colonial Gas Company and Essex County Gas Company (collectively, "Companies"). In their filing, the Companies seek expedited review and approval of a three year portfolio management agreement and gas supply contract with El Paso Energy Marketing Company ("El Paso"), which they assert is necessary in light of El Paso's requirement of a final decision on or before November 1, 1999. The Department has requested that initial comments be filed on an expedited basis.

Consistent with the abbreviated time available to review the Companies' proposal and with the express understanding that additional issues may be identified following receipt of discovery, the Attorney General has identified three important issues raised by the Companies' filing that the Department should resolve after a thorough investigation, including evidentiary hearings, prior to granting any approval of either the proposed portfolio restructuring or the ratemaking treatment to be accorded the results of that proposal.

- Whether the portfolio management proposal chosen by the Companies provided the best price and non-price terms. *Fitchburg Gas and Electric Light Company*, D.P.U. 92-156, p. 22 (1992); G.L. c. 164 § 94A.
- Whether the proposed portfolio management contract, as a "replacement resource," "provide[s] net benefits to existing firm ratepayers relative to the existing resource." *Commonwealth Gas Company*, D.P.U. 90-221, pp. 13-18 (1992); *Fitchburg Gas and Electric Company*, D.P.U. 92-156, p. 5 (1992); *Commonwealth Gas Company*, D.P.U. 91-220, p. 4 (1992).
- Whether approval of the portfolio management contract will result in inappropriate market power in light of the fact that El Paso's affiliate, Tennessee Gas Pipeline Company is the largest of just two (soon, to be three) major pipelines to serve Massachusetts.
- Whether the Companies' proposal to retain a portion of the results of the portfolio restructuring is consistent with the "margin sharing" principles adopted in D.P.U. 93-141-A.

Please feel free to contact me at 727-2200, extension 3451 if you have any questions about these preliminary comments or require any further information.

Sincerely yours,

James W. Stetson

Assistant Attorney General

Regulated Industries Division

Public Protection Bureau

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cc: A Quincy Vale, Esq., Hearing Officer

All Parties by FAX and/or E-Mail

1. The Attorney General has issued three sets of discovery and reviewed bid documents. However, in light of the lack of time for a thorough review as well as the lack of responses to discovery these Comments are necessarily preliminary in nature and do not reflect the necessary detailed review of the filing.